

**Perry/Willard Wastewater  
Facility Board Meeting  
975 West 1000 North  
Willard Utah 84340  
April 27, 2015  
5:00 p.m.**

**Members Present:** Chairman Steven Pettingill, Board Member Greg Hansen, Board Member Bob Beebe, Board Member Esther Montgomery, and Board Member Rod Mund

**Others Present:** Plant Manager Jeff Hollingsworth, Greg Westfall, Perry City Administrator, Dale Freede, Willard City Council Member, and Susan K. Obray, Minutes Clerk.

**1. Welcome & Call to Order**

Chairman Pettingill welcomed and called to order the Perry/Willard Wastewater Board Meeting.

**2. Approval of the March 30, 2015 and April 6, 2015 Minutes**

**MOTION:** Board Member Beebe moved to approve the March 30, 2015 amended minutes. Board Member Montgomery seconded the motion. All in favor.

**MOTION:** Board Member Hansen moved to approve the April 6, 2015 minutes. Board Member Beebe seconded the motion. All in favor.

**3. Agenda Items**

**A. Declare Conflict of Interest, If any**

Board Member Montgomery stated that if the budget is approved tonight she will have to declare a conflict of interest.

**B. Approval of the Agenda**

**MOTION:** Board Member Montgomery moved to move Item K after Item H on the agenda. Board Member Mund seconded the motion. All in favor.

**C. Public Comments (if any)**

No Comments.

**D. Plant Manager Items**

Jeff stated that the plant seems to be running the same as last time. He is getting ready to mail off the Municipal Wastewater Planning Program resolution. He said it has both cities finances plus how the plant is operating. Jeff reported that the plant is rated for 3300 pounds of BOD loading a day, and we are currently running at 930 pounds a day. Jeff reported that the BOD, TSS, Coli forms, DO and Ammonia, have exceeded our limits. We have done really well. The report also asked if we were worried about a few things that we might need to upgrade in the future and he mentioned chains, gearboxes and sprockets. Teri from Willard and Shanna from Perry got him the financials for the yearly Municipal Wastewater Planning Program report. Jeff stated that he was approved at the last meeting to buy a few things. He said that he has been through three different people at Westtech and he still hasn't gotten a bid for the gearboxes, chain or a sprocket. Jeff stated that he got a bid from the SCADA person for the computer items and it was very high and so he went online and ordered the parts that he knew were broke. He reported that he ordered a couple of controller boxes and a few other items. He spent

\$1,100. Jeff stated that the Portaband came today. The UV vendor has not sent him a bid; the aftermarket vendor did send him a bid. He explained that he is still waiting for Coombs and Hopkins to send him a bid for the UV lamps. He said that Coombs and Hopkins want \$800.00 for each ballast and the other vendor wants \$635.00 for each ballast. The vendor for Coombs and Hopkins stated that he would still support him. Board Member Mund asked if he knew anyone else that has used them. He said that he did but that they were afraid to use them because of the loss of support. Jeff stated that he wants to order some electrical parts, lamps, and valves. He explained that he wants to see where he is at before he starts ordering. Board Member Beebe asked if they were still waiting for the redesign of the sprocket. Jeff said he didn't know. Board Member Beebe stated that when the Board started talking about this a while ago they were re-designing the sprocket. Jeff commented that they have already re-designed the chains.

#### **E. Call Outs**

One call out on April 26, 2015 on the SCADA system. It had locked him out. He said he rebooted the computer and it started again. Jeff said it locked all of his IP addresses. Chairman Pettingill asked if he noticed any other IP addresses. Jeff stated no.

#### **F. Items to be Purchased**

Jeff stated that he is still worked on purchasing the items that the board approved.

#### **G. Discussion/Action on Policies and Procedures**

Chairman Pettingill stated that we will keep this item on the agenda until we work through some of the items especially with the board members. Board Member Montgomery stated that she would like this item to be more specific as to what policies and procedures we will be talking about. She said she cannot prepare for that if it is not specific. Chairman Pettingill stated some of the actions that were taken in the last three months he feels we need to do things to protect our board and board members from the on slot of the political winds that blow. He said all of the policies and procedures are supposed to be defined by us. Board Member Mund stated that they went and visited with Dennis Sorensen of Spanish Fork and put that on the agenda and have a go through with the whole thing and see what items we need to have in there and we need to work on. Chairman Pettingill stated that they will talk about that on the board member items. He said that Jeff, Rod, and he talked with Dennis Sorensen from Spanish Fork Sewer Facility. Board Member Mund said when we talk about policies and procedures, that is a pretty wide issue. He said we need to narrow that down and work on it. Board Member Hansen said that the board made mention two weeks ago about our bylaws. He said someone was going to check with one of these other communities and see if they had some bylaws that we could boiler plate from. Chairman Pettingill said we have, and they have given us a copy of their agreement. He said we are not ready to implement anything at this moment. It is just up for discussion.

#### **H. Discussion/Action Regarding the Banking Process**

Greg reported that he talked with Perry City on April 16<sup>th</sup>. The City Council is not ready to sign the document that the bank prepared. He said they acknowledge that Willard City has it in a document that they will assume all liability. Board Member Hansen stated that

after sitting through the financial report that Perry City gave that night, he is of the opinion that trying to set up this checking account, he feels, it is not the right path for the board to take. He said his reason is that the accounting was spot on and every single dollar is accounted for. Board Member Hansen said the last 5 years has run pretty smooth. He said there are some issues with micro-managing. He stated we can handle that. Board Member Hansen said we are talking about raising the cost to the taxpayers \$20,000, \$30,000, or \$40,000 just so we can have our own checking account. He said he is struggling with that and if we continue to run it as is, but change the process a little bit so that we get the information at the plant that we need to continue to run it and not have to worry about hiring an accountant, legal counsel, an auditor, and a minute's clerk. He said because Perry City is making sure all of these things are taken care of. Board Member Hansen explained that it was agreed on several years ago that \$7,800 a year would be charged for administration and Perry would pay 66% and Willard would pay 34%. He said that Perry only billed that out one time to Willard. The board is not paying for administration. Chairman Pettingill said before you put something like that in the minutes you might want to reflect on the bids that we have had versus the \$20,000, \$30,000, or \$40,000 that you acknowledged. Board Member Hansen said we don't know what it is going to be. Chairman Pettingill said at this point in time we have two bids for the accounting to be \$300.00 a month. Board Member Hansen said we need an Auditor, we don't know what the legal fees are, and we have to be bonded. He reported that he talked to Chuck Palmer and he said as far as auditing goes you are looking at \$6,000 to \$8,000. He said we are increasing the tax payer's burden so we can have this checking account.

Board Member Beebe said that the cities indemnified their board representatives or their city council person, and it is already in place. Board Member Montgomery said this does not apply to this entity. Board Member Beebe stated that it does because you are a representative for the city, so you are indemnified by Perry City. Board Member Montgomery stated that she will have to look into this because that is not the way she understands it. Board Member Beebe stated that the \$40,000 increase was the one question he had after that meeting. He asked where that amount of money will come from. He said because the bids we are getting here, there will be an increase but a substantial less of an increase then what was represented to us there. Board Member Beebe stated that we are looking at \$3,600 to have the books done, \$1,200-\$1,400 to have the minutes and paper work, and so we are still under the amount. He said he knows that we have to have our audit at the end but he is not sure what that is going to cost. Board Member Hansen stated that he was told it would be \$6,000 to \$8,000 for the audit. Board Member Beebe said even with the audit it would still be under \$16,000 to \$17,000. Chairman Pettingill stated that he does not have a product to put forth to give them a bid. That is the problem he has with those numbers that are pie in the sky. He said when he goes to Allen & Associates or Wiggins and tell them what he wants and has a month's supply of bill to hand them, they both gave him the exact same number at \$300.00 a month. Chairman Pettingill said that maybe \$400.00 is more realistic. He said he heard some of the reviews from the meeting that it is going to cost us pie in the sky numbers. He wants to deal with the numbers that he has. He explained that as soon as he has the numbers from Allen & Associate then we will know how much an audit will cost us.

Chairman Pettingill stated when you bring the \$6,000 figure here, he questions it. He said he looks at Willard City and they are willing to step forward and facilitate the process to move forwards at the boards direction. Chairman Pettingill commented that he looks at Perry City inhibiting everything the board does. Board Member Montgomery stated this board is supposed to be a recommending board. The action that was taken in February was not a recommendation. She said it was not a recommendation it was an action that was acted upon immediately. Board Member Montgomery stated that there was no explanation, no plan, and no process. Board Member Beebe stated that it is well within the guidelines of the interlocal agreement. Chairman Pettingill stated that in the interlocal agreement it doesn't say that we recommend anything to Perry City. Board Member Montgomery read from the interlocal agreement: page 7 section 4.1. "Sewer Facility Board Created. A sewer facility board will be created for the purpose of monitoring the number of hookups allowed, monitoring each City's use of the total wastewater capacity of the Facility, discussing problems, policies, revenues, expenditures and any other matter affecting the operation of the Facility". She said that taking over the finances has nothing to do with that. Board Member Montgomery stated that Perry and Willard had an agreement and everything was working great. She stated that in the February minutes it says that the board is going to take over the financials and they have the authority to decide it. Chairman Pettingill asked if she was at the meeting. Board Member Montgomery stated that she was not, but she read the minutes and gets the motivation and attitude of the February meeting. She said the minutes said three different times that he said that the board is going to make that decision. Board Member Montgomery stated that her representation is that the board crossed the line in that instance, because you do not have the authority to make that kind of decision without the approval of the city councils. She said she knows what the interlocal agreement says about collections, but what is the difference between sending your bills to an accountant and sending them to Shanna. Board Member Montgomery stated that they are already managing the warrants. There really is no difference to the process in what you are going to do with this other person that you want to hire for money that public funds are going to have to front. She said Perry was doing a fabulous job and we were good partners to Willard. We were not charging them. She stated that she is making a pros and cons list here and the pros list is empty.

Board Member Montgomery stated that there are a lot of concerns that need to be addressed. She said you just can't say they are pie in the sky because they are not. She explained that the numbers that Shanna represented in this packet are actually based on the minutes from these meetings. Board Member Beebe said \$30,000 to \$40,000 a year? Chairman Pettingill asked if anyone wanted to comment on the banking process. Board Member Montgomery commented that we need to go back to what was in place. Chairman Pettingill stated that he has tried to get back to this. He said with her short tenure as a council person you have lost track in the fact that this was supposed to be on a temporary basis. Board Member Montgomery said this is not what the interlocal agreement suggests. Chairman Pettingill stated that the interlocal agreement states that we need to collect the money every month. Board Member Montgomery said the board pays the warrants every month. She said it was not supposed to be temporary, it says in the agreement that it is a 50 year agreement, which is not temporary. Chairman Pettingill

stated you need to get to the point in the agreement where we start collecting the money and quit taking the money from Willard and making an arbitrary decision at Perry City Council that concerns how the money is split. Board Member Montgomery stated that is not arbitrary. She said that is the interlocal agreement which says 66% and 34%. Chairman Pettingill said that the interpretation of the interlocal agreement which refers to the collection where it says "or". Board Member Montgomery stated that is the part that you think gives the board the authority to decide. Chairman Pettingill said that it is not the "or" that says we have the authority to decide it, it's the "or" that decides it. Board Member Montgomery commented that it is not. Chairman Pettingill stated that Perry has road blocked the board in this and so we will move on. Board Member Hansen stated there wasn't anything prepared and so Perry City Council can't approve it. Board Member Beebe stated we can't take any action in hiring Susan at this time. Board Member Hansen asked if there was a possibility to continue to try this as is, but as a board we collect more data from our cities so that we have more reporting and more information and continue that for a four to six months period. Board Member Beebe said it has been going on over a year. He said we started back in November 2011. That was the first time Willard City Council was presented flows as a billing basis. Board Member Beebe stated it was discussed again in January and the holdup at that time was a faulty meter that had to be changed so they could start collecting flow data at that point for a year and then switch over to flows. He said the previous Mayors agreed to it, previous City Councils agreed it, and the sewer board agreed to it. He stated that now we are at the point where Perry does not want to agree to it. Bob stated that it is pretty clear cut in our City Council minutes what was brought in and what was presented. Board Member Montgomery stated that she has not looked back that far. She said the interlocal agreement states that this is the whole of the agreement until modified and it has not been modified. Chairman Pettingill stated that the only thing that you can cling to is the interpretation of the agreement and my interpretation is different than yours, and Willard City's interpretation is different than yours. Board Member Montgomery asked in what aspect, in the part that says this is the whole agreement. Chairman Pettingill stated no, in the collections portion. Board Member Montgomery stated that the board is a recommending board. Chairman Pettingill stated he didn't think so. Board Member Montgomery stated that they are to discuss and manage the facility. She said everything outside of the facility is outside your jurisdiction. Board Member Montgomery said at the beginning of February's meeting Bruce Howard stated in the minutes "we need to remember that we can only make recommendations, and we cannot take action" and by the end of the meeting he was the one who took action and made the motion.

Board Member Beebe stated that it all started last October when we wouldn't agree to the percentages that your Mayor requested. Board Member Hansen stated as far as banking that is all there is. Board Member Beebe stated that Willard has signed everything that has been requested but, for Perry, they don't want the banking to proceed. Board Member Montgomery stated when this action happened in February Steve came into the Perry City office and requested the tax exempt id number from the city and we saw those red flags flying. She said we got a copy of the minutes and the council read them and caught the motivation and said "something has got to change." That is when we pulled our board member. At that point Willard upheld a board member and

Perry City at that time requested that a presentation be made and how the process should work. Chairman Pettingill stated that he did not get a formal presentation request from anyone. Board Member Montgomery stated that was not true. Chairman Pettingill stated that the information for this meeting will help facilitate that. Board Member Beebe stated since we can't do the banking, we can't agree on the policies, and can't hire anybody. He asked what exactly can we do until the road block is lifted. Board Member Mund stated we can sign the pay request and adjourn the meeting. He said because regardless of what we want to do there is a difference of opinion between the two cities as to what this board is set up to do. Board Member Mund stated there is difference of opinion at different times among the board as to what this board is supposed to do. He said that this discussion that Board Member Montgomery is talking about has been going on for several years; it just didn't start in February. Board Member Mund stated that we are coming up on a permitting process. We feel as a board we need to know what the interlocal agreement means. He said the only way we are going to find that out is if we hire an attorney to represent the board that can work with the city attorneys so that we know what is going on. Board Member Mund stated the big angst is when we changed administrations. He said everything had been going pretty good and then all of the sudden the new administration wants to tweak this and they want to tweak that. He commented that it doesn't matter which city it was and then they got on the business of how are we going to pay for this. Is it going to be on ownership is it going to be on flow and that is where we are at today. Rod stated that none of these issues have been resolved. We have had the discussions and it just keeps coming back around. He said you think that the "or" doesn't mean anything. We think it means something, and Willard thinks it means something else. He said we have got to get this figured out.

Chairman Pettingill stated when he took this job he was given instructions by both Mayors that the Mayors and City Councils will want to interfere and you are to keep them out and that was his instructions. He said when he did and when he tried all he got was rebuffed from Perry and interference in what we have done down here. Board Member Hansen stated that he did talk to Mayor Braegger and he asked him if he was opposed to Perry City handling the accounting as it is today. He said Mayor Braegger said that he wasn't for it and he wasn't against it. He said whatever the board decided to do is what he would support. Chairman Pettingill stated that Mayor Braegger went down to the State offices and had a discussion with someone down there and talked to them about what the board's functions were. He said Mayor Braegger has backed off as far as the VAC truck goes, interference with the maintenance, and the administration of this facility.

#### **K. Discussion/Action on Budget Approval**

Board Member Montgomery stated that 75% of the budget has elapsed. Board Member Hansen stated that Perry has to have this budget to them by April 29<sup>th</sup> for the May 7<sup>th</sup> deadline. Chairman Pettingill stated that Willard City has the same deadline. Board Member Montgomery stated that the department heads are the ones that present the budget. She asked Steve if he was going to present the budget. Steve said he would. He said on "April 1<sup>st</sup> of each year the Sewer Facility Board will prepare an Annual Budget for the next fiscal year. The Sewer Facility Board will provide a copy of the

annual budget to each City. If they deem it pertinent, each City and the Sewer Facility Board will make recommended changes to the Annual Budget. Board Member Montgomery stated that it is updated through March. Board Member Hansen asked if the board wanted him to repeat the numbers that they discussed 2 weeks ago. Chairman Pettingill gave approval. Board Member Hansen stated that on salary they had \$89,000; benefits \$58,000; Supplies \$10,250(increased for lab supplies for extra samples); Equipment \$72,000; Utilities \$80,000; Phosphorous Removal \$22,500; Training & Travel \$5,500; Prof. & Technical \$25,000. Board Member Beebe asked if the \$5,000 that was given to South Jordan was taken out of this line item. Board Member Montgomery asked if that was an annual amount that was taken out.

Board Member Mund stated that one of the things that we need to consider is that we are going into a licensing renewal. We may need more professional people than we have had in other years. Chairman Pettingill stated that they have helped us in the past for nothing, and that has happened through Jeff and himself through diligent work and communication and have had very good response. Jeff stated that he talked to Leland Myers and he would go to their board meeting and see if we are willing to be a part of the South Jordan group and see if they would accept us under their umbrella for \$5,000 a year. He said if the state comes after us for anything, they would support us. Jeff stated that we do have Parson, Bailey, and Latimer as a retainer in Salt Lake. He said we have not paid this retainer because we have not had an issue with anyone. Jeff stated that Coombs and Hopkins is coming for the UV tune-up. Board Member Beebe asked if they needed to send a retainer to the environmental attorney.

Jeff stated that he talked to Lisa with Parson, Bailey, and Latimer because he was worried about the Willard Spur and there was quite a few people coming after us. She said she would be able to do business with us. Jeff stated that he ran a potential conflict check. This would be above and beyond the \$5,000. Board Member Montgomery stated that the \$25,000 includes accounting, auditing, Susan to do the minutes, legal, and bonding. Board Member Hansen stated that the only amounts that we know for sure are Hal Allen and Associates and Susan's rate. Board Member Montgomery stated that this is a tough one because Perry is not buying into the accounting. Board Member Beebe stated that it was the opinion of the Willard City Attorney that the board needed legal representation. He said that he was very clear about it. Board Member Montgomery stated that the Perry City Attorney has told them that this board has no authority to procure those public funds without the city's authorization. Board Member Beebe stated that this amount is arbitrary because we only have possible amounts. He said until the cities can come together, we will not know an amount. Board Member Beebe stated that Leland Myer group is the roadblock that stands in front if the State of Utah creating new legislation. He said that they do give us some consulting and is a huge resource.

Chairman Pettingill stated that one of things he has talked to Jeff about is uniforms so we don't have to rely on them to take showers here and clean their clothes here because of the environment they work in. It is very important that they go home as clean as possible. He said we have contracted to do a clothing exchange here. Board Member Montgomery stated that every line item needs to be justified. Chairman Pettingill agreed but said that

they have not had uniforms in the last 4 years. Jeff stated that he has never gotten a break down of his budget. Chairman Pettingill asked if anyone had a problem putting \$25,000 in Prof. & Technical. The board continued with the discussion on the budget, Insurance \$21,600 (this is done through the ULGT); Disposal \$7,000. Board Member Mund asked if these was realistic. The numbers will stay the same. Vehicle \$11,100 there were some bids handed out from the State contract. Board Member Hansen asked if you purchase a vehicle is it for three years? Greg Westfall stated that it would be for 5 or 7 years. Board Member Beebe stated that if you divide the \$6,870.23 (trending amount) by 12, multiply that by 36, that equals \$20,610 and a truck is \$19,719.79 or \$19,983.10. Board Member Beebe asked Jeff what he takes out of the vehicle line item. Jeff stated that he takes tires, fuel, and operation expenses. Board Member Beebe stated that Jeff is using 6,870.23 in fuel and operation expenses. For a vehicle and to maintain the vehicle we would have to double that portion of the budget. He stated that we are looking at \$14,000 a year. Board Member Hansen asked if they could stretch that amount out for 5 years. Greg Westfall stated that it would be \$4,000 for 5 years. Board Member Beebe stated that takes that part of the budget up to \$10,800. Board Member Montgomery stated that is great but who is going to pay for it up front. She said you pay for it up front and then the depreciation pays it back to whatever general fund it came out of. Greg Westfall stated that the Cities upfront the money or have the dealership finance it. He said he is not certain if the state bids allow that, but it could be checked into. Chairman Pettingill stated that we can incorporate the finances in the budget or you pay up front. Board Member Montgomery stated for this entity the only option would be to finance. Chairman Pettingill stated instead of \$10,800 put in 11,100. The total budget for the wastewater facility is \$401,950 for the 2015 budget.

Board Member Montgomery stated when we look at salaries for the employees they are Perry City employees. She said knowing the status of Perry City employees and that their increases are based on performance and certification levels. Board Member Montgomery stated that their pay practice will need to be recognized in there and she would expect that will be modified. Board Member Hansen stated that is a 16.2 % increase over last year. Board Member Beebe stated with the salary there is one problem with that. He said we only have one person that is a level 4 operator and we are paying less money to him at this plant than any other plant in the state. Board Member Montgomery commented that was not true. Board Member Beebe stated he could drive down the road and make more money. Board Member Montgomery stated the fact of the matter is cities only have so much money. Board Member Mund stated that another thing that needs to be considered is when you are talking employees, go hire someone to replace Jeff and see how much it would cost to replace him. Board Member Montgomery stated that she knows. She said that we don't want to lose Jeff but there is a cold hard reality that we cannot exceed our budget.

Chairman Pettingill made a recommendation to the board and to the cities that they better be prepared to negotiate. He said we have a great operator and we have seen other sewer plants fail. He stated that we are very fortunate to have Jeff. Chairman Pettingill stated that we are looking at a \$57,000 increase from last year. Board Member Hansen stated that the 2014 budget was \$333,226. Chairman Pettingill stated in 2013 we experienced a



30% increase in the power bill. Jeff stated that the \$1,000 monthly payment he has been making to Rocky Mountain Power should be finished this year. He said the contract is up in June or July. Chairman Pettingill stated that should make his truck payment. Board Member Montgomery stated regarding Prof. & Technical and getting representation, if they had a person in mind, a group, or a dollar figure.

Board Member Mund stated that his big interest is the testing. Jeff stated that if he fails the Bio-Monitoring testing twice, then he has to sample weekly. He said it is close to a couple grand in the test alone. He explained then we might have to have professionals come in and see why we are failing. Board Member Montgomery stated that she wanted to be clear that the \$25,000 does not reflect the accounting and legal representation. She said this will be represented in the council meeting and she wants to make sure it is clear what the \$25,000 is for. Chairman Pettingill stated that it could be. Board Member Hansen stated the only two we have is Hal Allen \$3,600, and Susan at \$1,200. We don't have any other figures. Board Member Montgomery stated that Steve will have to represent the budget to the City Council.

**MOTION:** Board Member Mund moved to recommend the 2015 budget. Board Member Beebe seconded the motion.

Board Member Hansen no	Board Member Montgomery yes
Board Member Mund yes	Board Member Beebe yes
Chairman Pettingill yes	

**Motion Approved:** 4 yes 1 no

Board Member Beebe asked Board Member Hansen where his problem was with the budget. Board Member Hansen stated that if he cuts the numbers down on what he has been given and on what could be the audit and what could be the legal we are at \$13,300 that has to come out of Prof. & Technical. He said those are expenses we are going to incur. We don't have bids for them yet but that is the low side of the numbers he was given. He stated that the other thing he knows is Perry won't approve it. Board Member Hansen stated if you read the interlocal agreement there is a process. He said they are going to put their own amount in there for the budget. Board Member Hansen stated it is a substantial increase and he told them that they needed to double what they were shooting for. Board Member Mund stated that it is a joint budget between two cities, so how do they arbitrarily do that. He said we are going to a point where we won't have a budget. Board Member Mund stated all they can say is no.

**I. Discussion/Action Regarding Hiring Susan Obray Minutes Clerk**

**MOTION:** Board Member Montgomery moved to table Item I regarding hiring Susan Obray as minute's clerk. Board Member Mund seconded the motion. All in favor.

**J. Discussion/Action on Hiring Jeff Thorne Legal Representation**

**MOTION:** Board Member Montgomery moved to table the hiring of Jeff Thorne as Legal Representation.

## **Discussion**

Board Member Beebe stated that Willard has been advised by legal counsel that the board needs legal representation in this matter. Board Member Mund stated that the hearing between the two cities is pretty much closed and all they know is what the council tells them. He said that he has lost a lot of faith in both cities since this program started. Board Member Mund stated that the board needs to know exactly what is going on because if the state comes here and they come to the Chairman or the Plant Manager and ask what is going on and they say they don't know, just go talk to the two cities. He said they are not going to waste their time going and talking with two different Mayor's that are already in conflict. Board Member Mund stated that the State may say these guys can't get along, they don't have a working program going, they can't even agree on a budget, they are in the licensing process, and maybe we should come in and take this plant over and they will charge whatever the cities can bear and then some. He stated that is his concern.

Chairman Pettingill stated when you say that Perry won't pass the budget you are sending a definite message to Salt Lake City. He stated that the plant has been nicked and dined for the last 4 years and they have had a skinny budget and have been told by Perry to keep the budget down. Chairman Pettingill stated that there are things that need to be bought and things that need to be done. He said for instance the power bill. Board Member Montgomery stated that the power bill is out of their control. She is talking right now there are the accessory costs, were talking about the accounting, we are talking about the lawyer. Board Member Mund stated it is so that the board knows what is going on between the two cities. He said that is the only way the board will find out what is going on. There are so many personality issues going on around here between the two cities and between members of this board. Board Member Hansen asked if the two cities legal counsel can take care of it. Board Member Beebe stated that both interpretations of the interlocal agreement are so far apart you wouldn't think that they were looking at the same document. Board Member Montgomery stated that there is still hope. She commented that the two councils had a meeting with their attorneys in an open public meeting and that didn't work. She said there is room for compromise and negotiation to actually come to an agreement on the interlocal. She felt that it was attainable. Chairman Pettingill stated that the board needs to be represented. Board Member Montgomery stated that the board does not have anything to do with it. Board Member Beebe stated that they have everything to do with it. Board Member Hansen stated that we are asking the cities to fund an attorney to enter into the law suit.

Board Member Mund stated that he didn't think he would be part of the law suit. He would be a part of what is going on in these closed room discussions and look at the court record and tell the board what in the world is going on between the two cities. Board Member Beebe stated that both cities went to court a while back and there were two groups of people there. He said we had attorneys running back and forth at the end of this there was an agreement, or was there an agreement? Board Member Beebe stated that the agreement was not upheld as it was presented to one set of parties.

Chairman Pettingill stated that Mr. Thorne gave some good recommendations that we should pay attention to and that is the intent of the agreement and that needs to be availed not for one city point of view but for both cities point of view. Board Member Hansen asked if there was any indication of cost. Chairman Pettingill said no. Board Member Montgomery stated that we cannot take any action without a dollar amount.

**MOTION:** Board Member Montgomery moved to table the hiring of Jeff Thorne as legal representation. Board Member Hansen seconded the motion.

Board Member Montgomery yes

Board Member Hansen yes

Board Member Beebe no

Board Member Mund no

Chairman Pettingill no

**Motion Failed:** 3 no 2 yes

Board Member Montgomery stated you want to approve hiring legal representation without knowing what he is going to cost. Board Member Beebe said we just went through a budget process and put in numerous items that we don't know what they are going to cost over a year. Board Member Montgomery stated that is very poor practice. Board Member Mund said they agree, but look at what has brought us to this point. Board Member Hansen said can we do it as a board. Board Member Mund stated legally we can't do it because we don't have a bank account, we are relying on Perry City to cut the check and they have pretty much told us that they are not going to do that, until the cities get together and solve their problems. Chairman Pettingill stated if we hire him he still will get paid with a three-two vote. Board Member Hansen stated this has nothing to do with Mr. Thorne's qualifications. He is an excellent attorney. He asked if it was possible to get a cost from him on what it would cost to do the legal services.

Board Member Montgomery stated to go back and read the February minutes. Board Member Beebe stated that both Perry City representatives voted for it 4-0. Board Member Mund stated that the interlocal agreement needs to be defined by somebody, obviously it's not happening, and it's not happening on this board. We can't even agree what "or" stands for. He said someone is going to have to dictate that and he feels it is a sad thing that we are going to finally have to go to a court for somebody to define that. He said the definition that we are going to get back if we go that route that nobody is going to want, Perry or Willard, but that is the direction it is going. Board Member Hansen stated we would have a definition. Board Member Mund stated that if this document is a 50 year document, and there is going to be administrations changed throughout the course of that 50 years, and we need to get this thing lined out so that people know what that means and come to an agreement on what that means. Chairman Pettingill stated we can't even collect the money in the collections portion of the interlocal agreement. Board Member Mund stated that they will go around every 4 years. Chairman Pettingill stated it would be every two years. Board Member Beebe stated that if Perry wants us to agree for 50 years to pay 34% of the operating costs, you got it. He said 50 years at 34% is the most ludicrous deal that Perry City could ever make. Board Member Hansen asked for clarification on the motion. He said it was tabled 2 for

and 2 against, correct? Chairman Pettingill stated that the tabling did not happen. Board Member Hansen asked if that was the end of the item. Chairman Pettingill stated that there was not any other action taken by the board members. Board Member Beebe stated that there was not another motion and they decided to wait and see if Mr. Thorne could come up with some form of a budget.

#### **L. Board Member Items**

Chairman Pettingill stated that he received an e-mail from Dennis Sorensen with Spanish Fork Plant. He said Jeff, Rod and himself went to Spanish Fork and visited with him. Chairman Pettingill said they have the same interlocal agreement as we have except for the modification of who reads the meters. He said he will be very blunt with the board on what he said. Chairman Pettingill stated that he asked him if they could read the part of the interlocal agreement regarding collections. He said he read it to him and told him that they are stuck on the word "or" they want to go with percentage only, nothing to do with the flow and how it is applied. He stated he looked at them like they were nuts. Chairman Pettingill stated this is what they do at their facility and the formula that they use. He said every year they take the budget and divide it into 12 equal parts. An accountant comes up with this formula and this formula is what they use. He suggested that this would be a good formula for them to use. Chairman Pettingill read from the e-mail from Dennis Sorensen: "I was looking at the permit and contacted the City Auditor about the formula with Mapleton". He said Mapleton is not partners in this facility like Perry and Willard, Mapleton is a user partner. Board Member Montgomery stated they have to go on flows. Chairman Pettingill stated they bought into the plant on a percentage basis on the usage of the plant. He explained that they assessed the plants value, they assessed the number that Mapleton would need to purchase based on that plants capacity and then they purchased that amount, but it is still Spanish Forks plant. He said and this is how they bill them on flow. Chairman Pettingill stated this is not like any other sewer plant in the state of Utah or in other states across our nation. He said that they use the same interlocal agreement as we do. Board Member Hansen asked what our flow was last year. Jeff stated it was \$1.80 a thousand. Chairman Pettingill stated that if you read into what we were proposed to do right from the initial on slot on this whole agreement, the numbers were based on growth figures. He said those growth figures did not occur. Chairman Pettingill commented that a statement that he made to Perry City is you need to incorporate growth into your city. He said that he remembers that he was rebuffed on that remark and that it didn't help. Chairman Pettingill stated if you incorporated 50 to 100 homes every year, we do this by the numbers. He said if you keep the numbers down, down here, and you keep your numbers down, over there, our numbers are going to rise here at this plant, just because of the increases that we have here. He said Willard and Perry have to grow in order for the numbers to stay down. Chairman Pettingill stated if you want your sewer numbers to stay down you better promote growth. He said that the interlocal agreements are the same other than they can check each other's meters and they keep each other honest. Chairman Pettingill stated that Dennis is going to get back with him with some more information. Jeff stated that they based our interlocal agreement on Spanish Forks'.

Board Member Mund stated in the quest for fairness for all of the taxpayers around here we need to be looking at how it is done. He said he was on the City Council when they did this and we were always coming back to fine tune the agreement between the two cities. He stated as it happens with City Councils the continuity starts to fade away and other issues come up and we never came back to those things. He said the way that agreement was put together is not the finished document that was envisioned by the Mayors or the City Councils at that time. Board Member Mund stated that we had Smith Hartvigsen, Eric Johnson worked for them, he was the one that put that together because the State required that and it was put together in a short amount of time so that we could move forward. He said this agreement was never looked at as a tablet written in stone it was looked at as a document that could grow, and there could be accommodations made and changes made that would create this atmosphere of fairness for both communities. Board Member Hansen stated that he has read minutes back as far as he could go and he could see this frustration all the way through the meetings. He said he does not want to prolong it. There has got to be an easier way. Board Member Mund stated that they should have started using the interlocal agreement as the guide from day one. He said there were problems in the communities and problems with the operation of the plant. Board Member Hansen stated that he read a set of minutes where Eric Johnson was in attendance. Someone asked him if it was based on flow or based on ownership and he said that by doing it on flow it would drive them crazy. He said he doesn't understand why because this formula that Spanish Fork uses is very simple and he understands it, and it works. Chairman Pettingill stated if you take that comment from Eric in that meeting with the prior knowledge when he made that statement was, Perry is in trouble and we knew it, but we didn't know to the extent. Willard can't start up at this point in time because you are hooking people up systematically not all at once. He said this is the basis of how we started. He explained this was supposed to be a temporary pathway to get to this point. He said he has reported to Perry City Council more than three times this same scenario of what was going to happen. Chairman Pettingill stated that Perry City all at once decided to go to percentage without talking to Willard. He said that action is what started this off. Chairman Pettingill stated that they had all this information but councils change and ideas change. He said we couldn't go with flow immediately because Perry would have paid all the costs of the plant.

#### **Payment Approval**

There were no payment approvals.

#### **4. Action Taken**

(1) Recommended the 2015 Budget

#### **5. Items for Next Agenda**

#### **6. Adjournment**

Board Member Mund moved to adjourn. Board Member Beebe seconded the motion. All in favor.